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TO: HOUSE TRANSPORTATION COMMITTEE  
REPRESENTATIVE PAUL E. OPSOMMER, CHAIR  
FROM: ROBERT J. DADDOW   
DEPUTY COUNTY EXECUTIVE – SPECIAL PROJECTS  
OAKLAND COUNTY  
SUBJECT: ESTABLISHMENT OF REGIONAL TRANSPORTATION AUTHORITY  
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Mr. Chairperson and Members of the House Transportation Committee:

Thank you for allowing me to appear today representing Oakland County Executive L. Brooks Patterson and the Oakland County Administration to speak in favor of the creation of a new regional transportation authority for southeast Michigan.

The Oakland County Executive has long-supported regional transit in southeast Michigan. In 1995 he promoted and signed resolutions creating the Oakland County Public Transportation Authority enabling the voters to determine their support for regional transit by authorizing a tax. Oakland's "opt-in" communities have approved a transit tax by overwhelming majorities since that time. In 2001 and 2002, County Executive Patterson, in partnership with the other "Big Four" regional leaders, Mayor Archer, Executive McNamara, Chairperson Hertel, helped shepherd the Detroit Area Regional Transit Authority Legislation, (DARTA), H.B. 5467 through the legislature, only to see it vetoed by then Governor Engler on December 30, 2002, one of his last official acts in office.

On May 22, 2003, Oakland Executive Patterson and then Detroit Mayor Kilpatrick, Macomb Chairperson Nancy White and Wayne County Executive McNamara partnered with Governor Granholm and created the Detroit Area Regional Transit Authority via inter-local agreement. That agreement was immediately challenged in court by the American Federation of State, County and Municipal Employees ("AFSCME") and the Michigan Court of Appeals ruled that the inter-local agreement was void. See, AFSCME v Detroit, 267 Mich App 255, 261; 704 NW2d 712 (2005).

Still, the four southeast Michigan leaders did not give up. On June 2, 2006, the Regional Transit Coordinating Council (RTCC) directed the RTCC's Chief Executive Officer (John Hertel) to develop a comprehensive public transportation plan for the Southeast Michigan region. Working with the FTA, MDOT, DDOT and SMART, a plan was developed and on December 8, 2008, adopted by the RTCC (now Macomb Chairperson William Crouchman, Mayor Kilpatrick, County Executive Ficano and County Executive Patterson.)

The 2008 RTCC Transit Plan recommended a phased approach to implement a new Regional Transit Network consisting of a mix of enhancements to existing services, Arterial Rapid Transit, Bus Rapid Transit, Light Rail, and Commuter Rail. Corridors would move to a higher level of service *if and only if ridership warrants the improvements, state and local funding mechanisms are established and density characteristics will be able to leverage the needed Federal funds for capital construction.*

Importantly RTCC noted that the viability of the Comprehensive Regional Transit Service Plan was dependent upon future legislative actions including a) the legislative establishment of a regional authority to run the system, b) the legislative establishment state and local funding mechanisms requiring a vote of the People for adoption, and c) the identification and adoption of funding sources for both operating and capital costs and a federal match on capital costs.

Today, we are here seeking both the legislative establishment of a regional authority to run a transit system for southeast Michigan and the legislative establishment state and local funding mechanisms requiring a vote of the People for adoption.

The Oakland County Executive accepts the basic framework of HB 5309 but can support a final bill only if it contains the following essential provisions:

**A. The RTA is a Metropolitan Authority under Article VII, Sec. 7 of the Constitution.**

Creating the RTA as a metropolitan authority protects it from legal assertions that the act is a "local act" which is prohibited under the Constitution. References to the City of Detroit as a "city over X population" have changed after each decennial census since 1980 and have become increasingly vulnerable to legal attack. Metropolitan authorities are specifically authorized by the Constitution and may exercise powers provided by law without being subject to "local act" attack. Using the metropolitan authority framework results in the "qualified county" and "qualified region" definitions in Sec. 2 and throughout the bill.

**B. Voting Rule Changes.**

Section 6 (3) provides that the RTA board will conduct business by majority vote except for a limited number of "fundamental" issues. The bill as introduced required a 4/5ths vote of the board to determine the rate and ballot question for any assessment on property or motor vehicles that would be placed before the voters of the region. Any final bill must be modified to require a 7/9ths vote of the board, with at least one member from each county and the city being included in the

affirmative. The change ensures that a city's appointee and at least one county appointee have the power to demand a consensus position over a limited number of key decisions.

The voting rule proposal is modeled after similar rules that have been successful involving board actions at the Southeast Michigan Area Regional Transit (SMART) and Cobo Hall authorities.

#### **C. Single Regional Master Transit Plan.**

Section 7 of the bill needs to be clarified to provide that the RTA will develop a single master transit plan for the region by incorporating and updating the December, 2008 plan produced by the Regional Transit Coordinating Council and, assuming Washtenaw stays in the regional effort, the AATA plan for Washtenaw County into a single comprehensive plan for the region. The plan would integrate multiple modes of public transportation and coordinate routes, schedules, fares, etc.

#### **D. Centralized Financial Control.**

Section 8 of the bill needs to be re-written to clarify that all state and federal capital and operating funds will flow through the RTA to transit providers in the region. Applications for project funds would also go through the RTA to ensure conformance to the master transit plan. If applications are made by transit providers without going through the authority, they should not be eligible for state matching grants. The RTA needs to be the sole entity that may apply for state operating funds on behalf of transit providers in the region. Finally, in order to insure compliance with RTA coordination directives, the RTA must be able withhold up to 5% of state operating funds from transit providers that fail to comply with such directives issued by the authority. The re-write of Sec. 8 would model the RTA along the lines of Denver, Colorado where finance is centralized in the authority.

#### **E. Legacy Cost Ownership.**

Section 6 (3) (b) must be modified to provide that the RTA can acquire an existing transit provider only after the legacy costs of that provider have been paid or are required to be paid by a party other than the RTA, and only if the RTA board complies with federal law. This provision ensures that the legacy costs of an acquired transit system are not "stranded." Further, the RTA should be able to acquire an existing transit provider only after the board of the RTA unanimously approves the acquisition and after voters in each of the initial five member jurisdictions approve, by county, the acquisition at the ballot box.

#### **F. Rail, Light Rail, Street Railways.**

Any final act must require that any decision to acquire, construct, operate, or maintain any form of rail passenger services within the RTA area be required to first obtain the unanimous approval of all members of the RTA Board. Given the development of the proposed "M1" or Woodward Corridor Street Railway System and the fact that the proposed funding streams in the RTA bill are insufficient to fund any form of rail passenger service, this requirement must be defined to include "street railway services." In addition, any final bill must also continue to require express taxpayer approval

of rail funding. Finally, any final provisions relating to rail must also address and be subject to the legacy cost provisions set out Section “D” above.

Additional needed modifications include:

- Wording changed to protect against legal assertions that the act is a “local act” prohibited under the Constitution.
- Time requirements need to be inserted to guide initial decisions and policy preparation by the RTA board.
- The terms “public transportation” and “public transit” be used interchangeably in the bill.
- The section governing the name of an authority is changed to require the words “regional transit authority” rather than the name “southeast Michigan regional transit authority” in order to further protect against “local act” assertions.
- Ethical standards, protections against conflict of interest, and reports on contracting activities need to be added for improved accountability along with a provision allowing the governor to remove a board member for violation.
- Land condemnation proceedings, if any, need to be governed by relevant state law.
- Requirements for the RTA board to adopt an “asset management plan,” conduct periodic rider surveys, and establish a “dashboard” and a requirement to post all of these items on the authority’s website need to be added.
- A requirement for the authority to annually report the names and HQ’s of all vendors with whom the authority has contracted during the previous year need be added.
- A requirement to analyze the Woodward corridor all the way to Pontiac must be added.  
[Note: The Woodward Corridor Alternatives Analysis that is presently being conducted by SEMCOG is examining Woodward all the way to Pontiac.]
- Clarification that referenda on assessments or a motor vehicle tax will occur on one of the 4 regularly schedule election days and in accord with Michigan election law should be added.